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MCDERMOTT, WILL & EMERY  
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1 RECORD OF ORAL HEARING  
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3 UNITED STATES PATENT AND TRADEMARK OFFICE  
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5  
6 BEFORE THE BOARD OF PATENT APPEALS  
7 AND INTERFERENCES  
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10 Ex parte SERGEY N. RAZUMOV  
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13 Appeal 2008-3743  
14 Application 10/762,375  
15 Technology Center 3600  
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19 Oral Hearing Held: January 15, 2009  
20

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22  
23 Before HUBERT C. LORIN, ANTON W. FETTING, and BIBHU R.  
24 MOHANTY, Administrative Patent Judges

25  
26 ON BEHALF OF THE APPELLANT:  
27

28 ALEXANDER V. YAMPLOSKY  
29 McDermott, Will & Emery  
30 600 13th Street  
31 Washington, D.C. 20005-3096  
32

33  
34 The above-entitled matter came on for hearing on Thursday, January 15,  
35 2009, at the U.S. Patent and Trademark Office, 600 Dulany Street,  
36 Alexandria, Virginia, before Victor Lindsay, Freestate Reporting, Inc.

P R O C E E D I N G S

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3 MS. BEAN: Calendar Number 38, Mr. Yampolsky.

4 JUDGE LORIN: Mr. Yampolsky?

5 MR. YAMPOLSKY: Um-hum.

6 JUDGE LORIN: Good morning.

7 MR. YAMPOLSKY: Good morning.

8 JUDGE LORIN: This is Appeal 2008-3743. We're familiar with the  
9 record. When you're ready, you may proceed, you have 20 minutes.

10 MR. YAMPOLSKY: Yeah, sure, I'll try to be as brief as possible.

11 First, I want to describe my invention just to understand -- this is kind of

12 unusual system for ordering products which combines interaction. It's

13 basically using interaction of voice recognition and displaying images.

14 What's unusual here is that normal systems actually use one of them, voice

15 recognition or display, because you have well-known voice recognition

16 systems for ordering and screen systems for ordering.

17 And actually, a little bit history of this product. I understand that my

18 clients were trying to develop just voice recognition system, but they wanted

19 to do it for large retail system, especially for ordering grocery. And this is

20 kind of a discount retail system where a lot of customers are older people,

21 and it was just impossible to train voice recognition system to recognize

22 voices of thousands of customers, because different customers, a lot of

23 different items to recognize. And it was completely disaster, actually. They

24 couldn't do anything. Then they suggested to restrict at least number of, of

25 words that supposed to be recognized because, as you know, if you have less

26 words to be recognized, it's much easier. But, again, another problem, how

1 customer would know which word to tell actually because it's impossible  
2 task. And then they actually came up with combination of voice recognition  
3 with display, and they decided on each phase or on each screen -- on each of  
4 phase of product ordering introduce unique set of recognizable commands.  
5 And, of course, it's much easier to recognize because much less words  
6 involved.

7 But, again, how to know -- to give customer information what to tell  
8 and what not to tell. Impossible again. And they suggested to use screen at  
9 the same time, and actually what's going on once -- if you are at certain  
10 phase of product ordering, screen show basically words that is recognizable  
11 at this specific stage. It's basically like that. And, of course, when you're  
12 ordering, for example, some specific types of grocery or whatever, it's much  
13 more limited and especially they plan to limit it as much as possible. Of  
14 course, now it's at least possible because customer will look at the screen  
15 and will know what to tell and what not to tell, right.

16 And I prepared a set of claims for each to save time and not to read  
17 everything. And basically, this is a system for enabling customer to order  
18 required product if comprised of just voice recognition mechanism standard,  
19 and plus standard display mechanisms at basically. But display mechanism,  
20 display mechanism, of course, display certain -- one screen at first phase,  
21 another screen at another phase, naturally. But voice recognition mechanism  
22 being configured to establish a first set of voice command recognizable  
23 when the first screen is displayed, and a second set of voice command  
24 recognizable when a second set -- screen is displayed. I was trying to  
25 explain it basically as clear as possible. It seems at least to clear, right?

26 JUDGE LORIN: Yes, it's very clear, yes.

1 MR. YAMPOLSKY: From the claim that we're doing basically  
2 limited recognition for specific screen, for specific display image, whatever.  
3 We have rejection under 102 based on -- this -- disclose regular type screen  
4 system for ordering where you can just touch certain button to, to do  
5 whatever you want actually. But it contain language which I put at third  
6 page of presentation saying that interfaces usually offered with touch screen  
7 to enter information by touching a screen. However, as a means for entering  
8 information may also use including keyboards, touch panels, input joysticks,  
9 mice, microphones, and voice recognition and response systems and other  
10 suitable means of making a selection that can be recognized by a computer.  
11 And basically based on this phrase, examiner somehow believes that this  
12 system anticipates my system. And I actually argued inherently here, but  
13 examiner actually in examiner's answer pointed out specifically that she's not  
14 relying on inherencies as this is express teaching. And I was kind of  
15 stunned, quite frankly, because usually sentence like that, as you know, all  
16 normal type of attorneys actually put in everywhere that you can connect  
17 with whatever you want basically.

18 But to get anticipation based on that kind of -- and I looked at  
19 dictionary to understand what means expressly because I didn't know. I  
20 thought maybe I'm getting crazy and don't understand what means expressly,  
21 but still expressly is defined as in express manner, in direct or unmistakable  
22 terms, explicitly, definitely, directly. And I don't think that this phrase that  
23 instead of touch screen you can use voice recognition system, of course you  
24 can. It's quite clear to everybody, but it does not mean that you have this  
25 specific voice recognition system that we developed. And actually, our  
26 voice recognition system is kind of I would say even crazy because I thought

1 from the very beginning that it's just redundancy because why you need  
2 touch screen if you have voice recognition. But turns out that maybe it's not  
3 that bad because recently actually I was trying to select -- with touch screen  
4 and when I touch 1, button, some other button was touched instead and it  
5 was kind of crazy. You probably saw this you Blackberry and very  
6 inconvenient, quite frankly. I mean I thought that maybe system like that is  
7 not that bad after all.

8 JUDGE LORIN: I have a question, counsel. You're right, the  
9 Examiner did say that the Examiner is not relying on inherency. I see that  
10 the Examiner is saying that that is expressly disclosed, and your position is  
11 that it's not expressly disclosed.

12 MR. YAMPOLSKY: Yes, absolutely.

13 JUDGE LORIN: My question is do you think that -- what would be  
14 your position had the rejection had, had the rejection been under  
15 obviousness?

16 MR. YAMPOLSKY: Obviousness, actually, I would say that my  
17 combination is kind of crazy because it's definitely against common sense to  
18 combine stuff that nobody needs to combine. And actually, advantage of  
19 this stuff, I understood only recently based on this Blackberry product when  
20 I looked at it and I was not happy with touch screen. I understood that  
21 maybe it's not bad to use voice recognition, but to tell you the truth, it's  
22 basically against common sense. And if it's against common sense, I  
23 wouldn't say about obviousness because why you would do stuff which is  
24 uncombinable basically, make no sense.

25 JUDGE LORIN: All right, thank you.

1           MR. YAMPOLSKY: And I'm not sure whether it was intentionally  
2     done that way, but maybe they just wanted to add as many features as  
3     possible, but as a result, they used displaying image for specific purposes of  
4     improving voice recognition system. And this is, I believe, far from obvious  
5     because usually when you improve voice recognition system, you are doing  
6     a lot of stuff for this voice recognition system, right, not just adding  
7     something in addition. Probably, like said at least from my common sense.  
8     Yeah, it was -- yeah, because I tried with my feelings when I wrote it that --  
9     he is kind of strange.

10          JUDGE LORIN: Thank you, counsel.

11          MR. YAMPOLSKY: Thank you.

12          (Whereupon, the hearing concluded on January 15, 2009.)